

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

MARIBEL BAEZ; FELIPA CRUZ;  
R.D., ON BEHALF OF HER MINOR CHILD, A.S.;  
on their own behalf and on behalf of all others  
similarly situated; UPPER MANHATTAN  
TOGETHER, INC.; and SOUTH BRONX  
CHURCHES SPONSORING COMMITTEE, INC.,

*Plaintiffs,*

v.

NEW YORK CITY HOUSING AUTHORITY,

*Defendant.*

No. 13 Civ. 8916 (WHP)

ECF Case

**DECLARATION OF PETRA T. TASHEFF IN SUPPORT OF PLAINTIFFS'  
MOTION FOR CLASS CERTIFICATION**

I, PETRA T. TASHEFF, declare under penalty of perjury that the following is true and correct:

1. I am a Senior Staff Attorney at the National Center for Law and Economic Justice and am one of the attorneys representing the plaintiffs and the proposed class.
2. I make this declaration in support of plaintiffs' motion for certification of a class of individuals who are:

Current or future residents of New York City Housing Authority (NYCHA) who have asthma that substantially limits a major life activity and who have mold and/or excessive moisture in their NYCHA housing.

**THE PROPOSED CLASS IS SUFFICIENTLY NUMEROUS**

3. Upon information and belief, NYCHA does not collect data on the number of NYCHA residents with asthma who live in NYCHA apartments with excessive moisture or mold.

However, using data and information from other sources, plaintiffs estimate the class to consist of thousands of individuals.

**Number of Households Residing in NYCHA Housing**

4. NYCHA is the largest public housing authority in North America. On March 1, 2013, NYCHA's conventional Public Housing Program had 178,914 apartments, *see* <http://www.nyc.gov/html/nycha/html/about/factsheet.shtml>. According to NYCHA data, in January 2013 NYCHA had 403,736 authorized residents. *See* [www.nyc.gov/html/nycha/html/about/factsheet.shtml](http://www.nyc.gov/html/nycha/html/about/factsheet.shtml).

**Approximate Number of Children in NYCHA Housing**

5. According to NYCHA data, in January 2013, 27.8 percent of residents in NYCHA housing are minors under age 18. *See* [www.nyc.gov/html/nycha/html/about/factsheet.shtml](http://www.nyc.gov/html/nycha/html/about/factsheet.shtml). Thus, the approximate number of children in NYCHA housing is 112,239 ( $403,736 \times .278$ ).

**Approximate Number of Households in NYCHA Housing With Children With Asthma**

6. According to national data, 9.5 percent of children aged 0 to 17 have asthma. National Center for Health Statistics, U.S. Department of Health and Human Services, *National Surveillance of Asthma: United States 2001-2010* at 4 (2012) (hereinafter "2012 Nat'l Surveillance of Asthma"), *available at* [www.cdc.gov/nchs/data/series/sr\\_03/sr03\\_035.pdf](http://www.cdc.gov/nchs/data/series/sr_03/sr03_035.pdf).

7. The prevalence of asthma, however, is higher in low-income households. *Id.*

8. According to a New York City Department of Health and Mental Hygiene report, 13 percent of children in New York City have asthma. *See* New York City Department of Health and Mental Hygiene, *Preventing and Treating Childhood Asthma in New York City* at 1 (July 2012), *available at* [www.nyc.gov/html/doh/downloads/pdf/survey/survey-2012childasthma.pdf](http://www.nyc.gov/html/doh/downloads/pdf/survey/survey-2012childasthma.pdf).

9. A study of over 5,000 New York City elementary school children found that almost 22 percent of study participants who lived in public housing had asthma. This rate was significantly higher than children living in any other type of housing. See Jennifer Northridge *et al.*, *The Role of Housing Type and Housing Quality in Urban Children with Asthma*, J. of Urban Health, 2010 March; 87(2): 211–224, available at [www.ncbi.nlm.nih.gov/pmc/articles/PMC2845835/](http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2845835/).

10. If the prevalence of asthma in children living in NYCHA housing is 21.8 percent, approximately 24,468 children living in NYCHA housing ( $112,239 \times .218$ ) have asthma.

11. Even if the prevalence of asthma in children living in NYCHA housing is the same as the prevalence in New York City generally, approximately 14,591 children living in NYCHA housing ( $112,239 \times .13$ ) children living in NYCHA housing have asthma.

**Approximate Number of Households in NYCHA Housing With Adults With Asthma**

12. According to national data, 7.7 percent of adults (age 18 or older) have asthma. 2012 Nat'l Surveillance of Asthma at 4.

13. According to NYCHA data, there are 291,497 authorized adults ( $403,736 - 112,239$ ) living in NYCHA housing. If the prevalence of asthma is the same in adults living in NYCHA housing as it is in adults in the general population, 22,445 adults living in NYCHA housing ( $291,497 \times .077$ ) have asthma.

14. This figure is likely to underestimate the number of adults in NYCHA housing with asthma, as most NYCHA residents are low income, and asthma is more prevalent in low income households. 2012 Nat'l Surveillance of Asthma at 4.

**Total Number of Children and Adults in NYCHA Housing With Asthma**

15. If the incidence of asthma among adults living in NYCHA housing is the same as it is nationally – an extremely conservative estimate – and the incidence among children living in

NYCHA housing is 21.8 percent, 46,913 (11,445 + 24,469) children and adults living in NYCHA housing have asthma. If the incidence of asthma among adults living in NYCHA housing is the same as it is nationally, and the incidence of children with asthma living in NYCHA housing is the same as it is among children in New York City generally, 37,036 (22,445 + 14,591) children and adults living in NYCHA housing have asthma.

**Excessive Moisture and Mold in NYCHA Apartments Are Prevalent**

16. Upon information and belief, NYCHA does not collect data on the number of NYCHA apartments with mold and excessive moisture.

17. Upon information and belief, mold is a common problem in NYCHA housing. NYCHA's Tenant Handbook devotes several pages to mold and mildew; it is the first topic discussed in a section of the handbook entitled "Potential Hazards." *See NYCHA, A Home to Be Proud Of: A Handbook for Residents of the New York City Housing Authority.*

18. Upon information and belief, hundreds if not thousands of NYCHA apartments have mold or excessive moisture. *See, e.g., Greg B. Smith, Mayor Bloomberg expected to announce plan to expedite hefty backlog of NYCHA repairs, N.Y. DAILY NEWS, Jan. 30, 2013, available at <http://m.nydailynews.com/new-york/plan-speed-nycha-repairs-unveiled-article-1.1251792?localLinksEnabled=false>.*

**PLAINTIFFS' COUNSEL IS EXPERIENCED AND CAPABLE AND WILL VIGOROUSLY REPRESENT THE CLASS**

19. The attorneys representing plaintiffs and the proposed class are experienced and capable and have extensive experience in class action litigation. The National Center for Law and Economic Justice has been class counsel in more than ten class actions filed in the Southern District of New York on behalf of applicants for and/or recipients of public benefits, including *Williston v. Eggleston*, 379 F.Supp.2d 561 (S.D.N.Y. 2005); *Reynolds v. Giuliani*, 118

F. Supp. 2d 352 (S.D.N.Y. 2000); *Meachum v. Wing*, 77 F. Supp. 2d 431 (S.D.N.Y. 1999).

Counsel for the Natural Resources Defense Council represented a class of children in homeless shelters who might have asthma; see *DaJour B. ex rel. L.S. v. City of New York*, No. 00 CIV.2044(JGK), 2001 WL 1173504 (S.D.N.Y. Oct. 3, 2001) (granting class certification under Fed. R. Civ. P. 23(a) and (b)(2) against City's opposition). NCLEJ and NRDC will vigorously represent the class.

Date: December 10, 2013  
New York, NY

  
Petra T. Tasheff